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Exemption No. 6836

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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

* * * * *
In the matter of the petition of
WASHOE COUNTY SHERIFF'S OFFICE
for an exemption from § 61.118
of Title 14, Code of
Federal Regulations
* * * * *

Regulatory Docket No. 25886

FAA-2000-8182-14

GRANT OF EXEMPTION

By letter dated April 10, 1998, and supplemental information dated May 11, 1998, Sgt. Marshall Emerson, Search and Rescue Coordinator, Washoe County Sheriff's Office (Sheriff's Office), 911 Parr Boulevard, Reno, Nevada 89512-1000, petitioned the Federal Aviation Administration (FAA) on behalf of the Sheriff's Office for an extension of Exemption No. 6475. That exemption from § 61.118 of Title 14, Code of Federal Regulations (14 CFR) permits members of the Washoe County Sheriff's Air Squadron (Air Squadron) who hold private pilot certificates to be reimbursed for fuel, oil, and maintenance expenses incurred while performing search and location missions for the Sheriff's Office.

Although the petitioner requests an extension of Exemption No. 6475, that exemption expired on July 31, 1998. Therefore, the FAA finds it necessary to issue a new exemption.

Although the petitioner requests continuing relief from § 61.118, the FAA notes that § 61.118 was redesignated as § 61.113 and therefore the FAA finds that the petitioner requires relief from the following regulation:

Section 61.113(e) prescribes that a private pilot may be reimbursed for aircraft operating expenses that are directly related to search and location operations, provided the expenses involve only fuel, oil, airport expenditures, or rental fees, and the operation is sanctioned and under the direction and control of a local, State, or Federal agency, or an organization that conducts search and location operations.

The petitioner supports its request with the following information:

The petitioner states that its current exemption will expire on July 31, 1998, and that an extension would continue to permit

Air Squadron members holding private pilot certificates to be reimbursed for fuel, oil, and maintenance costs incurred during official search missions.

The petitioner indicates that all conditions and reasons regarding safety and public interest presented in the original petition, upon which the exemption was granted, remain unchanged.

In the Sheriff's Office's original petition for exemption (Exemption No. 5119) the petitioner states that, pursuant to § 248.092 of the Nevada Revised Statutes, each sheriff in Nevada is responsible for conducting search and rescue operations within their county. The Sheriff's Office has accomplished this by using the Air Squadron, an all volunteer organization. The Air Squadron conducts search and rescue missions as requested by the Sheriff's Office. At the time of this petition, the Air Squadron consists of 11 member-owned aircraft and 21 volunteer private pilot members. The Air Squadron flies approximately 250 hours per year on official missions and, on occasion, may transport Sheriff's Office personnel on administrative missions within and outside the State of Nevada. The petitioner further states that to qualify for pilot status each Air Squadron member must take an annual check ride with the Air Squadron's flight instructor. Additionally, the petitioner states that the Sheriff's Office will obtain and comply with Civil Air Patrol (CAP) Regulation No. 60-1, as amended, and CAP Manual No. 50-15 to maintain an equivalent level of safety.

The FAA has determined that good cause exists for waiving the requirement for Federal Register publication and that any delay in acting on this petition would be detrimental to the Sheriff's Office.

The FAA's analysis/summary is as follows:

The petitioner, in its original petition for exemption, provided information to show that the Sheriff's Office is charged with conducting search and rescue missions within Washoe County. Washoe County is large, rural, and mountainous and therefore search and rescue missions require aerial observers. The Air Squadron is a volunteer organization of pilots who donate their time and aircraft for these search and rescue missions. The FAA recognizes and commends these volunteers for the lifesaving services they provide the citizens of Washoe County. The FAA believes that the search and location missions provided by the Air Squadron are of great importance and benefit to the citizens of Washoe County and the Sheriff's Office.

The FAA believes, however, that search operations are separate and distinct from rescue operations. Rescue operations may involve the transportation of emergency response personnel and victims. Additionally, some rescue missions may require specialized medical and life support equipment. Other than specialized military and emergency medical services aircraft, most aircraft are not designed

or equipped for rescue operations. For this kind of operation, and in the interest of public safety, the FAA has established, in 14 CFR part 135, a requirement for a person who conducts rescue operations to hold a commercial operating certificate that carries with it higher pilot training and certification standards and higher aircraft maintenance standards. Therefore, the FAA has determined not to permit the Air Squadron to perform rescue operations under the authority of this exemption.

Furthermore, the FAA has determined that the Federal Aviation Regulations which preclude the Air Squadron's pilots from conducting administrative flights, such as carrying the sheriff and prisoner personnel, are justified. In the interest of public safety, the FAA believes the more rigorous certification standards in part 135 are needed in such situations.

On May 28, 1998, the CAP was issued Partial Grant of Exemption No. 6771 (copy enclosed) from § 61.113(e) to the extent necessary to allow the CAP to reimburse CAP members for fuel, oil, supplemental oxygen, fluids, lubricants, preheating, deicing, airport expenses, servicing, maintenance expenses, and certain per diem expenses incurred while serving on official United States Air Force (USAF)-assigned missions. In that exemption, the FAA found that the CAP is designated as the official civil auxiliary of the USAF, and the Secretary of the USAF is authorized to extend aid to the CAP in fulfillment of its objectives. Section 9441(c) of the United States Code states, in pertinent part, that the Secretary of the USAF may use the service of the CAP in fulfilling the noncombat mission of the USAF, and, for purposes of determining civil liability of the CAP with respect to any act or omission committed by the CAP in fulfilling such missions, the CAP is an instrumentality of the United States. Consequently, the FAA found that the CAP presented a unique situation that warranted a partial grant of exemption limited to a flight or a series of flights directly related to USAF-assigned missions when the CAP is operating as an instrumentality of the United States.

Similarly, the FAA finds that the information presented in support of this petition and the circumstances presented by the petitioner justify a grant of exemption. The FAA recognizes the value of the services performed by Sheriff's Office and considers its mission and purpose to be in the public interest. The FAA finds that the Air Squadron, when conducting search and location missions as directed by the Sheriff's Office, is acting as an instrumentality of the Sheriff's Office.

The FAA has determined that, for the purposes of this grant of exemption, the Air Squadron is authorized to conduct only search and location missions for the Sheriff's Office. A search and location operation is defined as a flight or series of flights authorized by the Sheriff's Office to search for lost or injured persons and to communicate the location of the lost or injured persons to the

Sheriff's Office. Furthermore, the FAA has determined that all administrative flights or flights not associated directly with search and location operations will not be permitted under authority of this exemption.

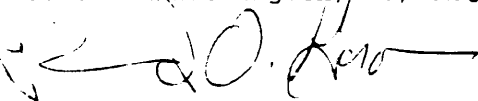
In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator (14 CFR § 11.53), the Washoe County Sheriff's Office is granted an exemption from 14 CFR § 61.113(e) to the extent necessary to allow members of the Washoe County Sheriff's Air Squadron who hold private pilot certificates to be reimbursed for fuel, oil, and maintenance expenses incurred while performing search and location missions for the Sheriff's Office, subject to the following conditions and limitations:

1. This exemption applies only to search and location missions that are authorized specifically by the Sheriff's Office.
2. Reimbursement for fuel and oil must be limited to the actual amount expended and must be documented properly by a purchase receipt with an itemized listing of the amount and cost of all fuel and oil expenses. Reimbursement for maintenance expenses must be limited to those costs directly related to the operation of the aircraft for official missions. These maintenance costs must be documented properly by a purchase receipt with an itemized listing of the description and cost of all maintenance expenses. The normal recurrent inspections and basic preventive maintenance of the aircraft are not covered by this exemption as reimbursable expenses.
3. The Air Squadron must maintain a current and accurate record of each pilot operating under the terms of this exemption. The pilot's logbook is not acceptable for this record. Each record must include the name of the pilot, facsimiles of the individual's pilot and medical certificates, the make and model of each aircraft, the itinerary and total time of each flight, and the purchase receipts with an itemized listing of the amount and cost of all fuel, oil, and maintenance expenses incurred while performing flights under the terms and conditions of this exemption.
4. The records required under Condition No. 3 must be retained by the Air Squadron for at least 1 year and must be presented to the Administrator upon request.
5. Operations conducted under this exemption must be restricted to searching for victims or potential victims, as determined by the Sheriff's Office, and reporting the location of these victims.
6. Flightcrews must be restricted to the pilot and the minimum number of essential personnel required for performing observation, map reading, and communications duties.

7. All administrative flights or flights not directly associated with search and location operations are not permitted under the authority of this exemption.
8. The Sheriff's Office must ensure that all of its supervisory personnel and all Air Squadron pilots who operate under the authority of this exemption are familiar with the provisions contained herein.

This exemption terminates on October 27, 2000 , unless sooner superseded or rescinded.

Issued in Washington, DC, on October 27, 1998



Richard C. Gordon
Acting Director, Flight Standards Service